

Belgium

Last update: April 2013

PART 1 – NATIONAL FRAMEWORK

Overview

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| National social dialogue | Principal Level of Collective Bargaining | National (sets framework) | |
| | Workplace Representation | Union representation, OSH committee and works council (union dominates) | |
| | Board-level Representation | No | |
| National worker representation | Belgium has structures at workplace level representing all employees (works council + OSH committee) and only trade unionists (union delegation). However, only trade unions are able to nominate candidates for the election of Works councils and OSH committees. Union delegations are being nominated by the trade union; they represent (in principle) only the affiliates of that trade union. It is the union delegation which negotiates key issues with management. | | |
| Principal legal documents on H&S | From 1947 onwards, the General Health and Safety Regulations (RGPT / ARAB) represented the consolidated version of all regulatory and general provisions on occupational health and safety. Since 1993 the RGPT / ARAB is being gradually replaced by the Code on Well-being at Work (<i>Code sur le bien-être au travail / Codex over het welzijn op het werk</i>). The Law of 4 August 1996 on the wellbeing of workers, transposes the 1989 Framework Directive. Most of the implementing regulations under that statute comprise the Code on Well-being at Work. | | |
| Public authorities on H&S | Federal Public Service Employment, Labour and Social Dialogue. | | |
| Employers' obligations on H&S | The employer is responsible for the health and safety of its employees. Hence, the employer is obliged to organise the prevention policy. In doing so, the employer needs to implement a series of regulations in the frame of its global prevention policy. As such, the employer needs to set up an internal service for prevention and protection of the health and safety of its employees; and conduct a risk assessment to define preventive actions and establish an annual action plan. Moreover, the employer needs to consult with the Health and Safety comité (CPPT / CBW) and has to comply with various obligations in term of information, instructions and training. The employers needs to contract with an external service for prevention and protection to compensate, when appropriate, missing expertise in the internal service for prevention and protection | | |
| Worker representative bodies on H&S | Health and safety committees (<i>Comité pour la Prévention et la Protection du Travail – CPPT / Comité voor preventie en bescherming op het werk – CPBW</i>) have been created in all enterprises habitually employing an average of 50 or more workers. The committees consist of the general manager of the enterprise and one or more office-holding or substitute representatives appointed by the general manager; these representatives may not outnumber the staff representatives. Where this committee is not set up by the enterprise, the trade union delegation is responsible for performing its health and safety functions. Where there is neither a committee nor a trade union delegation, workers participate directly in addressing issues relating to the well-being of workers in the course of their work. | | |
| Organisation of the social dialogue on H&S issues within the country | <i>Actors involved</i> | <i>Their role</i> | <i>Scope of influence</i> |
| | High Council on OSH (trade unions, employers associations, experts, osh administration) | Prepare and give advice regarding national legislation to the competent Minister of Labour, on his/her demand or on its own initiative | National |
| | Federal Public Service Employment, Labour and Social Dialogue | Prepare, promote and implement the public policy on industrial relations, employment, health & safety and well-being at work | National |
| | Directorate Control of Well-being at work of the Federal Public Service Employment, Labour and Social Dialogue | Control | National |
| | Trade unions and employers' | Negotiate | National and sectorial |

| Specialized H&S bodies on regional, sectorial or another level | associations | | | |
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| | Name | Setup conditions | Composition | Role and functions |
| | NAVB-CNAC (www.navb.be in Dutch / www.cnac.be in French) | prevention institute for the construction sector | trade unions and employers associations of the construction sector | Promoting well-being and prevention of work accidents and occupational diseases in the construction sector |
| | Provincial committees on health and safety | Regional bodies for promoting wellbeing at work | Osh administration, trade unions and employers associations | Promoting well-being by organising training sessions for workers, employers and prevention experts |

PART 2 – ENTERPRISE LEVEL: ORGANISATION OF SOCIAL DIALOGUE AND WORKERS' PARTICIPATION ON H&S AT WORK

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| General organisation and role on H&S issues | <p>Health and safety committees (<i>Comité pour la Prévention et la Protection du Travail – CPPT / Comité voor preventie en bescherming op het werk – CPBW</i>) are actively contributing to the assurance of the well-being of workers. The Committee's main role consists of</p> <ul style="list-style-type: none"> – rendering a position statement ('advice') prior to the implementation of projects or measures that might have an impact on the working conditions in the enterprise; – formulating proposals on the well-being policy, the five-yearly global prevention plan and annual action plan; – participating in the identification of risks; – evaluating the results of the preventive actions; – and promoting attention for H&S amongst workers. <p>In undertakings where there is neither a committee nor a trade union delegation, workers participate directly in addressing issues relating to the welfare of workers in the course of their work.</p> |
| Interaction of H&S representation with the general representation of workers | <p>In general, union delegations, Works Councils and H&S Committees have very distinctive –though complementary– roles in the representation of workers in the enterprise. Nevertheless, in enterprises where there is no Works Council (enterprises with less than 100 employees), the H&S Committee's scope is not limited to working conditions but its members may also request information relating to economic, financial and social matters. In enterprises without H&S Committee (less than 50 employees), the union delegation takes over the H&S competences</p> |
| Worker representation bodies on H&S at work | |
| Implementation of worker representation in H&S on enterprise level | All workers are covered |
| Thresholds of implementation | <p>A H&S Committee needs to be established in enterprises as from 50 workers. When a smaller enterprise (less than 50 employees) has a union delegation, this delegation takes over the competences of the H&S committee</p> |
| Role of the trade unions | <p>The interaction with trade unions is structural, since only representative trade unions may propose candidates for the H&S committees. Moreover, in enterprises where the H&S committee is not set up, the trade union delegation is taking over to perform its health and safety functions. The establishment of such union delegations is regulated by agreements on the sectoral level, or even on enterprise level.</p> |
| Composition, mode of nomination or election of members | <p>Bipartite. These committees are presided by the general manager of the enterprise. He/she can appoint one or more office-holding or substitute representatives; however, these may not outnumber the staff representatives. The role of the secretary is assured by the internal service for protection and prevention.</p> <p>Staff representatives of workers are elected amongst candidates presented by trade unions (social elections held every 4 years). The prevention advisors of the internal and external services for prevention and protection assist at the meeting whenever necessary by law or on request of the members of the H&S committee.</p> <p>On request and with permission of the employer, the workers representatives of the H&S Committee can be assisted by an expert of their choice (trade union official or</p> |

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| | other) | |
| Area of competencies | All domains of the law on well-being at work: health, safety, psychosocial risks, ergonomics, environment, toxicology | |
| Functions | Information / consult / control | |
| Rights of workers' representatives on H&S | | |
| Right of withdrawal, of production stop in case of immediate danger | No (individual right) | |
| | Every employee has the individual right to leave his workstation or a dangerous zone in case of severe and immediate danger. The employee has the obligation to inform immediately the management or the internal service for prevention and protection. The employer needs to inform the workers exposed to the danger as soon as possible and provide them with appropriate protection. A delegation of the H&S Committee meets immediately in case of immediate danger or a serious accident / incident. | |
| Right to conduct surveys | Yes | |
| | The H&S Committee has the right to conduct a survey in all work places. At least once a year, this survey needs to be done with the prevention advisor. A survey or workplace visit has to be conducted whenever 1/3 of the workers representatives in the H&S Committee ask to do so. | |
| Right to require external assessments | Yes | |
| | The H&S representatives can require external expertise to assist them during preparatory meetings, after informing the employer, and during meetings of the H&S Committee with consent of the employer. This expert can be a trade union representative, an independant expert or a staff member of the Federal Government Dept. 'Controll of well-being at work'. | |
| Right to lodge an appeal | Yes | |
| | Workers representatives in H&S Committees can ask at alle times the advice or the assistance of an inspector of the directorate of controll on well-being at work | |
| Right to receive training | Yes | |
| | H&S representatives have the right to receive appropriate training (needs to be included in the annual training plan). During training, workers representatives are paid their normal salary. These trainings need to take place during working hours or according to the collective agreement or legal conditions. | |
| | Amount of training | Depends on sectoral agreements ("as much as is necessary"). In many cases, the amount of training has not been specified in the agreements. Hence, the "custom" is applied (10 days of 'trade union leave' spread over the duration of the mandate (4 years)). Moreover, thanks to existing additional legal systems of training leave, members of H&S Committees can receive up to 6 days of training every year. |
| | Frequency of training | Depends on sectoral agreements and customs in the specific trade union. |
| | Training providers | Trade unions and trade union institutes. |
| Allocated time during working hours to conduct their role | Yes | |
| | The worker representatives have the right to 'delegation hours' in order to conduct their role. The employer has to give them the necessary time which is needed to fulfil their task. | |
| Protection against sanctions, dismissals in the frame of their mandate | Yes | |
| | Representatives that are a member of the H&S Committee or the Works Council have a legal protection against dismissal or transfer from one branch to another within the same enterprise (except when they agree to it). | |
| Link and the nature of the relations between the employee representatives and the trade unions | In enterprises with a H&S Committee, the worker representatives are elected during the 'social elections'. These candidates are presented by the trade unions. Moreover, in enterprises with no elected H&S Committee, the trade union delegation takes over its competencies (but different operating rules apply). In undertakings where there is no elected H&S Committee and no trade union delegation, the role of the H&S Committee is ensured by the workers themselves. | |

PART 3 – ASSESSMENT OF THE SOCIAL DIALOGUE AND WORKERS' PARTICIPATION IN THE COUNTRY

Evolution

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| Significant changes within the various instruments on H&S issues during the last 5 years | Yes | |
| | Objectives of these changes | Improve the prevention of psychosocial risks, especially harassment. |
| | Management of these changes | Legal ('royal') decrees published after negotiations between the social partners. |
| | Effects on the improvement or deterioration of the handling of these issues | It's too early to judge. |
| Assessment of the achievements on H&S issues through social dialogue | Stable but under pressure | |
| | Some important milestones | N/A |

Perspectives to achieve a good social dialogue and workers' participation on H&S issues

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| Missing factors | The threshold for installing H&S committees in enterprises needs to be lower (actual: as from 50 workers). |
| Existing key success factors | The existence of a H&S Committee with well trained, active workers' representatives, supported by their union, is the best guarantee for having effective social dialogue on H&S issues. |

PART 4 – APPENDICES

Glossary

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| Règlement général pour la protection du travail (RGPT) / Algemeen reglement voor de arbeidsbescherming (ARAB) | Consolidated version of all regulatory and general provisions on occupational health and safety voted between 1947 and 1993 |
| Conventions collectives de travail (CCT) / Collectieve arbeidsovereenkomsten (CAO's) | Collective agreements |
| Service interne de prévention et de protection au travail (SIPP) / Interne dienst voor preventie en bescherming op het werk (IDPB) | Internal service for prevention and protection at work |

Interesting links

<http://www.employment.belgium.be;>
<http://www.beswic.be> (well-being at work);
<http://www.respectautravail.be> (psychosocial risks);
<http://www.prevent.be>

Sources

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| Trade union contacts | ABVV/FGTB | Philipps François |
| | ACV/CSC | Van Eyck Kris |

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| Other | <ul style="list-style-type: none"> - http://www.worker-participation.eu - Questionnaire reply - http://www.employment.belgium.be/home.aspx - CSC, "Bien-être au travail & Action syndicale", 2010. - CSC, "La surveillance de la santé des travailleuses et des travailleurs", 2005, - CSC, "Rôle et compétences du CPPT, du conseil d'entreprise et de la délégation syndicale", 2012, |
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